

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14008, of Thomas W. Waltz, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the rear yard requirements (Sub-section 3304.1) to construct a one story sundeck in an R-3 District at premises 2438 - 39th Place, N.W., (Square 1810, Lot 210).

HEARING DATE: August 10, 1983
DECISION DATE: September 7, 1983

FINDINGS OF FACT:

1. The subject property is located on the west side of 39th Place between Benton and Calvert Streets and is known as premises 2438 39th Place, N.W. It is zoned R-3.
2. The subject lot has an area of 1,512 square feet and is rectangular in shape.
3. The subject property is improved with a two-story and basement row dwelling.
4. The rear of the subject structure is currently improved with a second story wood porch measuring approximately four by six feet with a wood staircase leading to the ground level. There is an entrance to an in-house garage at the ground level of the rear of the structure. A portion of the rear yard is paved for use as a parking area. The applicant indicated that the garage is not used.
5. The immediate area of the subject site is developed with similar row houses on similarly sized lots. Other dwellings in the immediate area, including the dwelling immediately adjacent to the north, are improved with second story rear porches and staircases similar in size and configuration to the existing porch on the structure.
6. The applicant proposes to replace the existing rear porch with a wood deck measuring approximately sixteen by eighteen feet. The purpose of the proposed deck would be to provide outdoor recreation space which would provide safe play space, secure from vehicles, for the applicant's child, and which would be aesthetically pleasing.
7. The applicant testified that a deck designed in strict conformance to the requirements of the Zoning Regulations could measure only eighteen by seven feet and

would be inadequate to provide ample space for a table and chairs and for play space for the child.

9. The applicant further testified that the choice of size and design of the proposed deck was based, in part, on the observation of existing decks in the neighborhood. The applicant stated that several dwellings in the immediate area were improved with rear decks and alleged that some of the existing decks had been constructed subsequent to BZA approval. The applicant did not offer specific information as to the addresses or BZA Orders relative to the properties purported to be improved pursuant to BZA approval.

10. There was no opposition to the application at the public hearing or of record. The record contains several letters in support of the granting of the requested relief from residents in close proximity to the subject site.

11. Advisory Neighborhood Commission 3B made no recommendation on the subject application.

CONCLUSIONS OF LAW AND OPINION:

Based on the evidence of record, the Board concludes that the applicant is seeking an area variance, the granting of which requires substantial evidence of a practical difficulty which is inherent in the land. The Board concludes that the applicant has not met the required burden of proof and, further, that no practical difficulty exists which would sustain the granting of variance relief. The applicant offered no evidence as to the physical constraints of the site which would justify the requested variance, such as exceptional narrowness, shallowness, shape or topographical conditions. The subject site is similar in size and shape to other lots in the subject square. The practical difficulty presented by the applicant, of providing play space for his child, is a personal one not arising out of the property and is not a proper basis for the granting of a variance.

The Board further concludes that the requested relief can not be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map. Accordingly it is ORDERED that the application is DENIED.

VOTE: 4-0 (Lindsley Williams, Carrie L. Thornhill, William F. McIntosh and Charles R. Norris to deny; Douglas J. Patton not voting, not having heard the case)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER:

OCT - 4 1983

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO
DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN
DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL
RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING
ADJUSTMENT."

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